

U.S. Department of Homeland Security
Homeland Security Advisory Council

December 1, 2016 Public Meeting
Meeting Minutes

The meeting of the Homeland Security Advisory Council (HSAC) was convened from 1:30 p.m. to 3:18 p.m. in the Woodrow Wilson International Center for Scholars, Washington, D.C. The meeting was open to members of the public under the provisions of the Federal Advisory Committee Act (FACA), P.L. 92-463 and 5 U.S.C. § 552b.

The following individuals were in attendance:

HSAC Members

William Webster, <i>Chair</i>	Carie Lemack
William Bratton, <i>Vice Chair</i>	Jane Holl Lute
Stephen Adegbite	John Magaw
Thad Allen	Christian Marrone
Ron Barber	David Martin
John Chaussee (Proxy for Gary Kelly)	Jeff Miller
Elaine Duke	Jeff Moss
Marshall Fitz	Matthew Olsen
Paul Goldenberg	Farah Pandith
Elizabeth Harman (Proxy for Harold Schaitberger)	John Pistole
Elizabeth Holtzman	Robert Rose
Jim Jones	Ali Soufan
Juliette Kayyem	Paul Stockton
	Karen Tandy

Also Present

Jeh C. Johnson, Secretary, DHS
Russell Deyo, Acting Deputy Secretary, DHS
Heather Fong, Assistant Secretary, Office for State and Local Law Enforcement, DHS
M. Tia Johnson, Assistant Secretary, Office of Legislative Affairs, DHS
Adnan Kifayat, German Marshall Fund
Megan Mack, Office for Civil Rights and Civil Liberties, DHS
Sarah Morgenthau, Executive Director, Homeland Security Advisory Council, DHS
Peter Neffenger, Administrator, Transportation Security Administration, DHS
Andy Ozment, Assistant Secretary, Office of Cybersecurity and Communications, DHS
Paul M. Rosen, Chief of Staff, DHS
George Selim, Director, Office for Community Partnerships, DHS
Traci Silas, Director, Committee Management Office, DHS

Suzanne E. Spaulding, Under Secretary, National Protection and Programs Directorate, DHS
Welcome by HSAC Leadership

William Webster, Chair of the HSAC, called the open session of the meeting to order at 1:30 p.m. Chair Webster welcomed HSAC members, attendees from the public and media, and Secretary Jeh Johnson.

Remarks by Secretary Jeh Johnson

Secretary Johnson welcomed the Council and the members of the public in attendance. The Secretary mentioned that this HSAC meeting was his last as Secretary, and he thanked the Council for its contributions. The Secretary stated that the Department's senior leadership greatly values hearing from concerned, informed citizens about matters of national security. Secretary Johnson stated he is proud of the representation the Council brings, coming from diverse backgrounds and interests, and hopes the Council will continue to advise the incoming Secretary of Homeland Security.

Countering Violent Extremism (CVE) Subcommittee Update

Farah Pandith and Adnan Kifayat, CVE Subcommittee Co-Chairs; and George Selim, Director, Office for Community Partnerships (OCP); provided the Council with the CVE Subcommittee's update. The Subcommittee had previously submitted a comprehensive, 50-state assessment of the work that needs to be done by both OCP and local organizers. In addition to the recommendations of the assessment, the subcommittee has also begun to focus on institutionalizing an approach to CVE. OCP's goal is to set in place a framework for long-term, sustained efforts to implement the recommendations.

Since the release of the HSAC report that recommended a more engaged position on CVE, DHS has undertaken several more CVE-related actions. The interagency CVE Task Force was created, and the White House National Security Council's Strategic Implementation Plan on CVE (SIP) was updated. OCP has worked toward implementing the Subcommittee's recommendations, focusing on recommendations related to: setting up DHS organization and infrastructure for CVE efforts, building a CVE architecture for all 50 states, and addressing issues of radicalization and recruitment to violence. This last area was highlighted when DHS issued the Department's Strategy for CVE on October 31, 2016.

DHS leadership also worked closely with input from a bipartisan Congressional ad-hoc committee to create the CVE Grant Program. The grant application process concluded in September 2016, with the Department receiving more than 200 applications from applicants in 42 states and territories. OCP is near the final stages of internal deliberations for making the awards. The CVE Subcommittee has given DHS several recommendations, and commented that they were pleased at the pace with which OCP has undertaken the work identified in the grant program plans. OCP stated they took seriously the subcommittee's sense of urgency in implementing the recommendations; HSAC members acknowledged that OCP accomplished a significant amount of work in a short period of time. The CVE program will provide a baseline

CVE National assessment, and how DHS can continue to build trust with communities to achieve more through connectivity and engagement.

Secretary Johnson shared his beliefs that the CVE mission must continue into the next administration, and that it is not a matter of politics, but instead common sense for homeland security. He also praised the work of OCP and the interagency CVE Task Force. Also discussed were the efforts of the Middle Eastern Law Enforcement Officers Association.

Member Barber stressed his analysis of the importance of connecting with faith-based communities, and building innovative approaches to adapt with the trends related to radicalization, recruitment, and extreme violence. Barber asked Pandith, Kifayat, and Selim what trend analysis was conducted and what trends were noticed in reviewing the applications.

George Selim said OCP was not expecting the volume of applications they received, and that the delay in making awards is due to the high volume and because OCP wants to ensure that each application is methodically evaluated and scored. Two of the major themes OCP noted are partnerships between non-governmental organizations and local public institutions, including mayors, sheriffs and police departments, as well as providing tailored resources to local constituents through a nuanced understanding of what a threat is and how to raise awareness of threats.

Privatized Immigration Detention Facilities Subcommittee Report

Karen Tandy, Subcommittee Chair, presented the report. The Subcommittee had a compressed timeline of 60 days to look at the current practices and policies of Immigration and Customs Enforcement (ICE), and, taking fiscal matters into consideration, determine whether privatized detention facilities should be eliminated. The tasking stemmed from an August 18, 2016 Department of Justice Deputy Attorney General policy change to start the process of phasing out privatized prisons by the Bureau of Prisons (BOP). The Subcommittee had to take similarities and differences between ICE and BOP detention facilities into consideration, one of the biggest being that ICE conducts a civil detention process, while BOP's facilities are post-conviction and focused on criminal punishment and rehabilitation.

The Subcommittee made 14 recommendations in total, the most notable of which is for ICE use of private facilities to continue. There have been dramatic surges in detention under the mandatory detention priorities that have been set by DHS and ICE, so there is a tremendous need for scalability beyond what any entity could provide economically and feasibly through owned facilities. Tandy shared that while there are many things that ICE has done well in terms of setting new detention standards, improving those standards, and making them performance-based, there are a number of areas where improvements need to be made. These improvements include expanding the detention standards to all facilities, and a greater focus on not just the process of inspection, but a qualitative review of the inspection itself.

Tandy shared that some Subcommittee members were of the view that the short amount of time given to the Subcommittee has led to a premature review and more time should be spent to study the issue. Due to the tight timeframe, the Subcommittee chose to focus on the type of facilities being used, and not as much on alternatives to detention for immigration processing (such as enhanced supervision or electronic monitoring).

Member Pistole asked what the key issues the incoming administration will need to address. Member Martin, who served on the Subcommittee, said the key issues will be the extent to which detention is used, and the specific purpose the facilities should serve.

Member Barber said that the Subcommittee did not have time to address supervision and healthcare in private prisons, and added that placing ICE wardens into private prisons could be an effective and inexpensive way to increase oversight.

Member Holtzman agreed with the Subcommittee's recommendations to increase monitoring of conditions in detention facilities, but expressed concern that the report suggests there is no real alternative to private facilities and believes that the subject warrants further review.

Member Duke agreed with the recommendations on the comprehensive enforcement of standards, and asked if the Subcommittee undertook an economic review.

Member Martin said the Subcommittee received some information including daily operating costs and a detailed analysis on how much conversion from private to ICE-owned facilities would cost. However, the Subcommittee did not have time to conduct a detailed analysis.

Member Fitz helped write the dissenting view to the central recommendation, and said that his concern was that Subcommittee reached a premature conclusion due to the short timeframe. There is more exploration that needs to be done, including looking at what civil detention versus criminal incarceration should look like.

Member Tandy said that the Subcommittee had spent a lot of time meeting with stakeholders and advocacy groups, and that it was not the committee's view that there is no choice but to continue with private detention facilities. The Subcommittee heard about alternatives to detention from more than two dozen advocacy groups, and came to the conclusion that more scalable facilities are required in order to meet the increasing demands of detention. From an economic viewpoint, these scalable facilities should include privatized facilities over local jails. Member Holtzman asked if the recent surges in ICE detention are with respect to the refugee population, the criminal population or other groups. Member Tandy said that while the Subcommittee did not have a breakout listing information on individuals detained, it was advised that the majority of detainees had a criminal record.

Public Comment

Claudia Flores with the National Latina Institute for Reproductive Health, Joanne Lynn with the ACLU, Brian Bennett with the LA Times, Andrea Senteno with the Mexican American Legal

Defense and Education Fund, Mary Small with the Detention Watch Network, and Heidi Altman with the National Immigrant Justice Center made public comments.

Council Deliberation and Voting on Report

The HSAC deliberated on the Privatized Immigration Detention Facilities Subcommittee's report and recommendations. Member Lute wanted to associate herself with Member Holtzman's comments. Member Jones moved to add Member Holtzman's comments to the dissenting footnote in the report. Several Members suggested wording for how Member Holtzman's comments should be added to the dissent. Chair Webster suggested the Council either vote for or against the report, rather than being bogged down in editing. Member Marrone agreed, and said that considering the time that went into the report, the Council should vote on it as it stands, and that the Secretary can weigh the comments made during the meeting. Member Lute remarked that several members would like to approve the report, but would like to associate themselves with the dissent. Member Martin reiterated that the Subcommittee did not consider alternatives to detention in the report, the recommendations do not say that private detention facilities are the only alternative to wholly ICE-owned facilities, and the report describes several steps taken to provide for additional independence in oversight along with several more important changes.

Secretary Johnson suggested that the Council could disaggregate the vote to those who support the report as written, those who support the report with association with the dissent, and those who oppose the report. Member Duke emphasized that the report is not the end of the issue, but that more review of the issue is necessary. Member Barber said that there is an immediate problem facing ICE in the documented inhumane treatment of detainees in the private prison system. Increased inspections and oversight of private prisons is necessary, and the next administration should consider these and other ideas.

A motion to accept the Privatized Immigration Detention Facilities Subcommittee's recommendations was made, seconded, and passed. The Council voted on and approved thirteen of the fourteen proposed recommendations in their entirety. The first recommendation, stating that the use of privatized immigration detention facilities will continue, was not adopted in full by the Council. Seventeen members voted to associate themselves with the views expressed in footnote 14, which dissents from the first recommendation. These seventeen members, however, strongly concurred with the remaining recommendations. Five members voted to accept the report in its entirety and one member voted against the report.

Public Session Concludes

Secretary Johnson thanked Chair Webster for chairing the Council and his distinguished contributions to the Department of Homeland Security and protection of the American public. Chair Webster shared that members of the public can submit additional questions to the HSAC in writing or by email. Chair Webster thanked everyone for their participation and adjourned the meeting at 3:18 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

February TBD, 2017

A handwritten signature in black ink, appearing to read "William H. Webster", written in a cursive style.

Signed and Dated

Judge William H. Webster, Chairman, Homeland Security Advisory Council

**U.S. Department of Homeland Security
Homeland Security Advisory Council Meeting**

December 1, 2016 Closed Meeting
Closed Meeting Minutes

Closed Session: 10:15 a.m. to 12:30 p.m.

HSAC Chairman Judge William Webster and Vice Chair Bill Bratton welcomed the Homeland Security Advisory Council (HSAC) members to the meeting and brought the closed morning session to order at 10:15 a.m.

John Miller, the Deputy Commissioner of Intelligence & Counter-terrorism at the New York Police Department, provided HSAC members with a counterterrorism update.

Russ Deyo, the Acting Deputy Secretary provided the members with a Presidential Transition update.

Peter Neffenger, the Administrator of the Transportation Security Administration provided an operational update on airport security.

Suzanne Spaulding, Under Secretary of the National Protection and Programs Directorate provided the members with an overview of the cybersecurity threat.

Judge Webster adjourned the morning session at 12:30 p.m.

Closed Session: 3:20 p.m. to 4:30 p.m.

HSAC Chairman Judge William Webster brought the afternoon closed session to order at 3:20 p.m.

Secretary of Homeland Security Jeh Johnson provided the members with an update on current issues surrounding the Department of Homeland Security.

Judge Webster adjourned the meeting at 4:30 p.m.

